# Peter Callaghan: Revenue before reform (or the other way around)

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I always look forward to the filings and oral arguments by the plaintiffs – and winners – of the landmark litigation known as McCleary v. State of Washington.

The first reason is that I've always found them on the right side of the issue that our state constitution makes the state's first obligation to provide for and pay for the education of all students.

That the arguments are presented so forcefully, even humorously, is the other reason policy nerds enjoy the writings and pleadings by Seattle attorney Thomas Ahearne. The Seattle attorney is clear, blunt and not above telling the members of the state Supreme Court what their job is.

"This court is not some meaningless bystander that watches the other branches violate the constitution and make excuses for why it can't get involved and write an op-ed piece that says 'Hey, guys, get around to complying someday,'" Ahearne told the court in June of 2011.

But perhaps high expectations is why Ahearne's most-recent filing — a response to the state's latest self-evaluation — is disappointing. Blame his client list — mostly school districts and teachers unions — more than Ahearne for a response that is long on rhetoric and a little casual with some history.

For instance, it attempts to counter the slogan of legislative Republicans – "Reform Before Revenue" – with the equally unhelpful "Revenue Before Reform." To which the rational response is, can't we do both at the same time?

And on teacher and staff salaries, Ahearne includes several quotes from the court's decision, some attributed to previous studies, that the state has "consistently underfunded staff salaries and benefits" and that it provides "far short of the actual cost of recruiting and retaining competent teachers, administrators and staff." More money, he argues, is needed to satisfy the court.

That, however, leaves out important context. King County Superior Court Judge John Erlick's initial ruling in McCleary described the problem like this: "The consistent evidence was that school districts routinely supplement the state funding for teacher salaries and benefits in order to attract and retain quality teachers."

A subsequent study commissioned by a work group on compensation concluded that the combined contribution of state funds and levy dollars makes teacher pay both adequate and competitive. Fringe benefits were termed "unusually generous."

The issue, therefore, isn't adequacy of pay, as the plaintiffs' filing suggests, but the source. To satisfy McCleary, more salary money needs to come from the state and less from local levies. And while Ahearne is correct that the Legislature did not add very much state money for salaries, neither did it reduce amounts coming from special levies or do anything to reform a broken and inequitable local levy system.

That dramatic failure of political courage by both the Legislature and Gov. Jay Inslee should have provided fertile ground for Ahearne and his clients. Rather than point it out, however, the plaintiffs left it out, perhaps to keep alive the fantasy that they will get full funding of salaries from the state without a corresponding reduction in the size of local levies.

The state left itself open for criticism — and perhaps a rebuke from the court — because its filing was so self-congratulatory due to the addition of $1 billion in public school funding. While that sounds like a lot, it is nowhere near where the state needs to be to meet the court's demand for ample funding by 2018.

The state's filing also ignored — once again — the court's repeated demand for a specific plan to show how it would meet that deadline. That did draw Ahearne's fire, as it should have.

Ahearne is most forceful in concluding that it is time for the court to demand more of the governor and the Legislature and prepare sanctions if progress toward full funding by 2018 isn't demonstrated.

"Each year of amply funded education delayed is a year of amply funded education forever lost," he wrote.

The court will respond to both filings, most likely before the 2014 legislative session convenes.

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